IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY TWO THOUSAND AND FOUR

**PRESENT: THE HON'BLE Dr. JUSTICE G.YETHIRAJULU**

**WRIT PETITION No. 12251 of 2004**

Between:

V.Chander Lal S/o Late Ghansi Ram
H.No.20-270, Teachers Colony, Achampet, Mahaboobnagar District

**... PETITIONER**

AND

1. TheVice Chairman & Managing Director Girijan Co-operative Corporation Ltd., Visakhapatnam
2. The Divisional Manager, Girijan Co-Operative Corporation Ltd., Srisailam, Kurnool District
3. The Senior Manager & Secretary, Girijan Co-operative Marketing Society, Mannannoor, Mahaboobnagar District

**...RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit, the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of mandamus declaring the action of the 2nd respondent authority in issuing the impugned proceedings in Letter No.Rc.No.195/B/2004 dt. 03/07/2004 placing the petitioner under suspension without even seeking an explanation whatsoever in spite of the details with regard to the sales and payments made by the petitioner submitted as arbitrary illegal and violative of Article 14, 21, 16(1) of constitution of India and further set aside the same as the same are issued in gross violation of principles of natural justice.

**Counsel for the Petitioner: MR.A.NARASIMHA REDDY**

**Counsel for the Respondents No.1 to 3: MR.N.SRIDHAR REDDY**

**The Court at the admission stage made the following:**

**Oral Order:**

The petitioner is seeking a writ of Mandamus by way of quashing the proceedings by declaring that the action of the 2nd respondent in issuing the proceedings dated 3-7-2004 placing the petitioner under suspension without seeking any explanation whatsoever is illegal.

The petitioner is working as a Junior Assistant in the respondent—Corporation. He was kept under suspension through the impugned order on the ground that he failed to pay certain amounts due to the Tribals and a departmental enquiry was also initiated against him and it is pending. The 2nd respondent while initiating the departmental enquiry kept the petitioner under suspension. The learned counsel for the petitioner represented that the suspension of the petitioner is a punishment prescribed under the Service Rules of the Employees of the Girijan Corporation Limited, Visakhapatnam ("the Rules" for brevity). The learned counsel further submitted that the procedure prescribed under the Rules is not being followed in the conducting of the enquiry, therefore, requested to quash the enquiry proceedings and direct the respondents to raise the suspension order.

Since the enquiry is pending adjudication, it is premature for the petitioner to question the legality or otherwise of the proceedings of the enquiry. Regarding the suspension of the petitioner, though it is prescribed as one of the major penalties under Rule 2 (b) of Chapter IV of the Rules, Rule 17 of the Appendix-E clearly indicates that whenever there is an order of suspension under these Rules, the action shall not require the giving of a prior notice obtaining the explanation of the employee concerned. In the light of the above rule, the suspension of the petitioner pending enquiry cannot be treated as a punishment. After the conclusion of the enquiry if the disciplinary authority finds the petitioner guilty of the charge and treats the suspension as a punishment, then only it can be treated as a punishment. Since the enquiry is pending, the writ petition at this stage is not maintainable. It is accordingly dismissed at the admission stage.

The petitioner, if so advised, is at liberty to approach the Court at the appropriate time.

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**(Dr.G. Yethirajulu, J)**

20th July 2004.

svs

.... ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Vice Chairman & Managing Director, Girijan Co-operative Corporation Ltd., Visakhapatnam
2. The Divisional Manager, Girijan Co-Operative Corporation Ltd., Srisailam, Kurnool District.
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